

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte PEIGUANG ZHOU
and
TIMOTHY JAMES BLENKE

Application 09/945,239

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 16, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on January 6, 2006.

37 CFR § 41.37(c)(1)(v) (2005) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on pages 2-4 of the Appeal Brief filed January 6, 2006 is deficient because it does not map the claimed invention to the independent claims. Correction is required.

In addition, Information Disclosure Statements (IDSs) were filed on February 13, 2006 and October 14, 2003. It is not apparent from the record whether the examiner considered the statements submitted or notified appellants regarding why their submissions did not meet the criteria set forth

in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellants to submit a substitute Appeal Brief which corrects the "Summary of Claimed Subject Matter";
- 2) for consideration of the substitute Appeal Brief;
- 3) for consideration of the IDSs filed February 13, 2006 and October 14, 2003, and notification to appellants regarding the Primary Examiner's decision; and
- 4) for such further action as may be appropriate.

**BOARD OF PATENT APPEALS
AND INTERFERENCES**

By: 
DALE M. SHAW
Deputy Chief Appeal Administrator
(571) 272-9797

DMS:psb

Senniger, Powers, Leavitt & Roedel
One Metropolitan Square
16th Floor
St. Louis, MO 63102